

# PART 3 – LAND USE

## *Chapter 1 – Uses Permitted in Residential Districts*

## *Chapter 2 – Uses Permitted in Commercial and Mixed-Use Districts*

## *Chapter 3 – Uses Permitted in Industrial Districts*

## *Chapter 4 – Special Use Standards*

## *Chapter 5 – Non-Conforming Situations*

### **Chapter 1 – Uses Permitted in Residential Districts**

**Section 3-101 Purpose and Applicability.**

**Section 3-102 Permitted Uses In Residential Districts.**

**Section 3-101 Purpose and Applicability.**

**A. Purpose.** The residential districts are designed to provide for neighborhoods ranging in densities from very low to moderately high. The differences in these densities and regulations are intended to support the varying lifestyles of the city's residents. The districts provide for a range of residential habitation including rural-agricultural, single family, multifamily, mobile home, and combinations thereof, together with home occupations, schools, parks, and public services necessary for a neighborhood living.

**B. Applicability.** Residential land use districts fall under three categories:

1. Single family residential (AG, R1-15, R1-10, R1-8, R1-7, R1-6, R1-5, R1-4, and R1-PAD);
2. Multifamily residential (R-2, R3-R, R-3, R-4, R-5, ~~and R2/3/4 PAD~~); and
3. Mobile home (RMH, MHS, TP).

**C. Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the development standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any overlay district requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part

3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See appendix.

**Section 3-102 Permitted Uses.**

Table 3-102 identifies land uses according to permit status. See key below the table:

| <b>Table 3-102 – Permitted Uses</b>   |  |   |              |
|---|--|---|--------------|
| <b>Uses</b>   | <b>Status of Use in District</b>                       |   |              |
| <u>MAKE TWO DIFFERENT COLUMNS, ONE FOR AG &amp; ONE FOR SFR.....</u>  | <b>SFR, AG, SFR</b>                                    | <b>MF</b>   | <b>MH</b>    |
| Accessory Dwelling ( <del>permitted in AG only</del> )<br>[Sec. 3-401]  | <del>U(S)</del> <u>N,N</u>                             | <del>U(S)</del> <u>S</u><br><del>Nrev.</del><br><del>12/19.</del> | N            |
| <del>Accessory</del> <u>Accessory, Buildings,</u> Uses and Structures – except accessory dwelling [Sec. 3-402]      | <del>S,</del> <u>S</u>                                 | S   | S            |
| Agriculture, Horticulture, Apiaries, Aviaries, Keeping Livestock <del>in the AG District only</del><br>[Sec. 3-403] | <del>P,N</del> <u>S</u>                                | N   | N            |
| Bed and Breakfast [Sec. 3-404]  | <del>U(S),</del> <u>U(S)</u>                           | <del>U(S)</del>   | N            |
| <del>Boarding Houses and Rooming Houses in R-3, R-4, and R-5 districts only</del>                                   | <del>N</del>   | <del>U</del>  | <del>N</del> |
| Boutique, Non-Profit [Sec. 3-405]   | <del>S,</del> <u>S</u>                                 | S   | N            |
| Cemeteries, Mausoleums, Crematoriums (AG or Multiple Family districts only)   | <del>U,</del> <u>U</u>                                 | U   | N            |
| Chickens, Rabbits, Similar Small Animals farming (AG only)  | <del>UP,</del> <u>N</u>                                | N   | N            |
| Construction Offices, temporary   | <del>P,</del> <u>P</u>                                 | P   | P            |
| Country Clubs, Private Clubs, Golf Courses  | <del>U,</del> <u>N</u>                                 | U   | N            |
| Day Care, In-Home<br>- not to exceed 6 children<br>- 7 to 10 children [Sec. 3-406]                                  | <del>P,</del> <u>P</u><br><del>U(S),</del> <u>U(S)</u> | P<br>U(S)   | N<br>N       |
| <del>Farm Laborer's Quarters with a net site area of 5 acres or more (AG only)</del>                                | <del>U</del>   | <del>N</del>  | <del>N</del> |
| Fraternity and Sorority Houses in R-3 and R-4 Districts only  | <del>N,</del> <u>N</u>                                 | U   | N            |
| Group Homes for Adult Care, Disabled, Child Shelter [Sec. 3-407]  | <del>S,</del> <u>S</u>                                 | S   | N            |

**Key:**

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SFR = Single family districts  
AG = Agriculture districts  
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MH = Mobile home district

Table 3-102 – Permitted Uses

| Uses  | Status of Use in District                   |                       |               |
|---|---|-----------------------|---------------|
| <u>MAKE TWO DIFFERENT COLUMNS, ONE FOR AG &amp; ONE FOR SFR.....</u>  | <u>SFR</u> , AG, <u>SFR</u>                 | MF                    | MH            |
| Guest Room<br><u>Guest quarters (Add in old guestquarters &amp; def.)</u>   | <u>S</u> , <u>SP</u><br><u>S</u> , <u>N</u> | P<br><u>N</u>         | P<br><u>N</u> |
| Home Occupations/Professions<br>[Sec. 3-408]  | <u>S</u> , <u>S</u>                         | S                     | S             |
| Horse Stables, commercial (AG only)<br>[Sec. 3-408]   | <u>U</u> , <u>N</u>                         | N                     | N             |
| Horses, keeping of (in the R1-15, R1-10, and AG districts only)   | <u>PS</u> , <u>S</u>                        | N                     | N             |
| Hospitals, Sanitariums, Nursing Homes, Convalescent Homes, Orphanages, Institutions of Mentally Disabled (AG, R-3, R-3R, R-4 only) and not less than 50 feet from an adjoining use. | <u>U</u> ( <u>S</u> ), <u>N</u>             | <u>U</u> ( <u>S</u> ) | N             |
| Live-Work, R-5 only [Sec. 3-409]  | <u>N</u> , <u>N</u>                         | <u>SU</u>             | N             |
| Mobile Homes [Sec. 3-410]   | <u>N</u> , <u>N</u>                         | N                     | P             |
| Multifamily Dwelling (2 or more families)   | <u>N</u> , <u>N</u>                         | P                     | N             |
| Nursery Schools and Day Care Centers (R-3, R-3R, and R-4 districts only)  | <u>N</u> , <u>N</u>                         | U                     | N             |
| Parking Facilities for Commercial Uses – off-street and not enclosed in a building  | <u>N</u> , <u>N</u> <u>U</u>                | U                     | N             |
| Places of Worship; except tents, and other temporary structures or buildings not permitted  | <u>P</u> , <u>P</u>                         | P                     | P             |
| <u>Private Educational Institutions</u> <u>see schools, below</u>   | <u>U</u>                                    | <u>U</u>              | <u>N</u>      |
| Processing of Farm Products customarily incidental to a permitted farm use and with a net site area of 5 acres or more <u>(AG only)</u>   | <u>U</u> , <u>N</u>                         | N                     | N             |
| Public Facilities; <u>except not allowing public business offices, repair, or storage facilities.</u>   | <u>U</u> , <u>U</u>                         | U                     | N             |
| Public Parks, Public Recreation Areas, and Publicly Owned and Operated Properties   | <u>P</u> , <u>P</u>                         | P                     | P             |

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| Table 3-102 – Permitted Uses  |  |                                    |                                    |
|---|--|------------------------------------|------------------------------------|
| Uses  | Status of Use in District  |                                    |                                    |
| <u>MAKE TWO DIFFERENT COLUMNS, ONE FOR AG &amp; ONE FOR SFR.....</u>  | <u>SFR</u> , AG, <u>SFR</u>  | MF                                 | MH                                 |
| <u>School, Charter</u><br><u>School, private</u><br><u>School, Public</u>   | <u>P</u> U, <u>U</u><br><u>U</u> , <u>U</u><br><u>P</u> , <u>P</u> | <u>P</u> N<br><u>N</u><br><u>P</u> | <u>P</u> N<br><u>N</u><br><u>P</u> |
| Residential Sales Office, temporary<br>[Sec. 3-411]   | S, <u>S</u>  | S                                  | S                                  |
| Retailing of Farm Products Produced on<br>Premises ( <u>AG-only</u> )   | U, <u>N</u>  | N                                  | N                                  |
| Similar Uses [Sec. 6-301]   | U, <u>U</u>  | U                                  | U                                  |
| Single Family Dwellings<br>- Single Family Dwelling<br>- Second Story Addition or Replace Single<br>Story With 2 or More Stories [Sec. 3-412] | <u>P</u> , <u>P</u><br>U( <u>S</u> ) <u>U</u> ( <u>S</u> )         | P<br>U(S)                          | P<br>N                             |
| Wireless Telecommunication Facilities<br>[See Section 3-413]  | U(S), <u>U</u> ( <u>S</u> )  | U(S)                               | U(S)                               |

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## Chapter 2 – Uses Permitted in Commercial and Mixed-Use Districts

Section 3-301 Purpose and Applicability.

Section 3-302 Uses Permitted in Commercial and Mixed-Use Districts.

Section ~~23~~-301 Purpose and Applicability.

A. **Purpose.** The Commercial and Mixed-Use districts land use standards are intended to:

1. Allow a mixture of complimentary land uses that may include retail, offices, commercial services, civic uses, and housing to create economic and social vitality, and to encourage the linking of trips;
2. Develop commercial and mixed-use areas that encourage walking as an alternative to driving and provide employment and housing options;

~~3. Provide both formal and informal community gathering places; and~~

~~4.3. Provide for automobile accommodating uses, while preventing strip commercial development.~~

B. **Applicability.** Commercial and mixed-use districts fall under six categories:

1. City Center (CC). The CC district fosters employment and livability in Tempe's city center by providing retail, offices, moderate- and high-density residential uses, entertainment, civic uses, and cultural exchange in a mixed-use environment that supports the public investment in transit and other services.
2. Commercial Shopping and Services (CSS). The CSS district is intended to meet the daily shopping and service needs of Tempe's neighborhoods.
3. Mixed-Use Commercial and Residential (MU-1, MU-2, MU-3, MU-4). The MU zone districts allow the integration of commercial and residential uses to support walking and transit as ~~an~~ alternatives to driving, and to provide employment and housing options. MU districts allow a range of development intensities and uses including, but not limited to: personal and professional services, institutional and civic uses, retail, multiple family dwellings, attached single family dwellings, and mixed-use buildings and building sites. All mixed use districts requires a PAD for processing.
  - a. The MU-1 district combines low to medium density housing with commercial and/or office uses that serve the neighborhood. ~~is for low to medium density housing combined with complementary and~~

~~supporting commercial or office uses at a neighborhood scale, and that are developed and operated in harmony with the residential characteristics of a low to medium density neighborhood.~~

- b. The MU-2 district combines medium density housing with commercial and/or office uses that serve the neighborhood. ~~is for medium density housing combined with complimentary and supporting commercial and office land uses that serve a neighborhood and are developed and operated in harmony with the residential characteristics of a medium density neighborhood.~~

- ~~e.c.~~ The MU-3 district combines medium to high density housing with commercial and/or office uses that serve the neighborhood. ~~is for medium to high density housing combined with complimentary and supporting commercial and office land uses that serve the neighborhood and community, and are developed and operated in harmony with surrounding uses.~~

~~d.d.~~ The MU-4 district is a mixed-use setting with high-density housing, and civic and employment uses. Development intensity in the MU-4 district is established through the P.A.D. process and must be consistent with the City's ability to provide public facilities.

4. Planned Commercial Center (PCC-1, PCC-2). The PCC districts are for neighborhood (PCC-1) or comprehensive (PCC-2) retailing, services and entertainment uses oriented to serve the needs of the neighborhood, community or the metropolitan region. Residential uses and mixed-use may be permitted if approved as part of ~~a the~~ PAD or PAD/~~POD~~ amendment. Requires a PAD.
5. Regional Commercial Center (RCC). The purpose ~~of the~~ RCC district ~~is to provide~~ provides regional shopping facilities in locations deemed appropriate to serve large demographic areas. Requires a PAD.
6. Residence/Office (R/O). The Residence/Office district allows professional and administrative services, live-work, and limited retail uses on small parcels located between higher intensity commercial and multi-use zones and residential zones.

- C. Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the development standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any overlay district requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See appendix.

## Section 3-202 Uses Permitted in Commercial and Mixed-Use Districts

Table 3-202 identifies land uses according to permit status. See key below the table:

**Table 3-202A – Permitted Land Uses  
(R/O, CC, CSS, PCC, RCC)**

| Uses   | Status of Use in District                 |                      |                      |                      |                      |                                    |
|--|---|----------------------|----------------------|----------------------|----------------------|------------------------------------|
|  | R/O                                       | CC                   | CS<br>S              | PC<br>C<br>1         | RCC<br>2             |                                    |
| <u>Bakery</u><br><u>Brewery</u>  | <u>N</u><br><u>N</u>                      | <u>P</u><br><u>U</u> | <u>P</u><br><u>U</u> | <u>P</u><br><u>U</u> | <u>P</u><br><u>U</u> | <u>P</u><br><u>P</u>               |
| Cemeteries, Crematoriums and Mausoleums  | N   | U                    | U                    | U                    | <u>U</u>             | <u>N</u> <u>U</u>                  |
| Childcare Center   | <u>P</u> <u>U</u>                         | P                    | P                    | P                    | P                    | <u>P</u> <u>U</u>                  |
| Civic Uses <u>(move to "public" to match single family matrix)</u><br>- Customer serving (e.g., post office, library, city office)<br>- open space, parks, similar uses<br>(See also, Schools)   | U<br>P                                    | P<br>P               | P<br>P               | P<br>P               | P<br>P               | P<br>P                             |
| Clinic <u>(medical, dental, veterinary (small animals))</u>  | P   | P                    | P                    | P                    | P                    | P                                  |
| Clubs, <del>Institutions, Nonprofit Org.</del><br><del>with meeting facilities</del><br>- <del>without meeting facilities</del><br><br>1. <u>Bar (indoor or outdoor), tavern, or nightclub (a)</u><br>2. <u>Lodge or similar organization (a)</u><br>3. <u>Teen night club (a)</u> | <u>N</u><br><u>N</u><br><u>N</u> <u>P</u> | U<br>P<br><u>U</u>   | U<br>P<br><u>U</u>   | U<br>P<br><u>U</u>   | U<br>P<br><u>U</u>   | <u>U</u> <u>P</u><br>P<br><u>U</u> |
| <u>Convenience Store (a)</u><br><u>- with gas/fuel sales (a)</u>   | <u>N</u><br><u>N</u>                      | <u>P</u><br><u>N</u> | <u>P</u><br><u>U</u> | <u>P</u><br><u>U</u> | <u>P</u><br><u>U</u> | <u>P</u><br><u>P</u>               |

(a) security plan required. See Appendix B.4.

### Key:

P = Permitted  
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R/O = Residence/Office  
CC = City Center  
CSS = Commercial Shopping and Services  
PCC1 = Planned Commercial Center Neighborhood  
PCC2 = Planned Commercial Center Comprehensive  
RCC = Regional Commercial Center



**Table 3-202A – Permitted Land Uses  
(R/O, CC, CSS, PCC, RCC)**

| Uses   | Status of Use in District                    |                              |                              |                              |                       |                       |
|--|--|------------------------------|------------------------------|------------------------------|-----------------------|-----------------------|
|  | R/O  | CC                           | CS<br>S                      | PC<br>C<br>1                 | RCC<br>2              |                       |
| Entertainment <del>[Sec. 6-309, Security Plan]</del><br>- <del>enclosed in a building, except</del><br>- theater or similar use, <del>enclosed</del><br>- amusement businesses <del>(a)</del> , <del>enclosed</del><br>- <del>not enclosed and not temporary (e.g., drive-in or other outdoor use)</del><br>- <u>outdoor (permanent use)</u> | N<br><del>NP</del><br><del>NU</del><br><br>N | <u>PU</u><br>P<br>U<br><br>U | <u>PU</u><br>P<br>U<br><br>U | <u>PU</u><br>P<br>U<br><br>U | P<br>P<br>U<br><br>U  | P<br>P<br>P<br><br>U  |
| Financial Institutions   | P  | P                            | P                            | P                            | P                     | P                     |
| Fine Arts Class Instruction  | U  | P                            | P                            | P                            | P                     | P                     |
| Heliport   | N  | U                            | U                            | U                            | U                     | U                     |
| Hospitals <u>(List same way as table 3-102 on p. 23.)</u>  | N  | U                            | U                            | U                            | U                     | U                     |
| Hotels and Motels <del>[Sec. 6-309, Security Plan]</del> <u>(a)</u>  | N  | U                            | U                            | U                            | U                     | <u>PU</u>             |
| <u>What is this? We don't know what uses this is referring to..</u> Industrial Service (e.g., cleaning, repair, and similar services)<br>(See also, Vehicle Sales and Service)   | N  | P                            | P                            | U                            | U                     | P                     |
| Live-Work [Sec. 3-409]   | P  | P                            | N                            | U                            | U                     | N                     |
| <del>Manufacturing/Production:</del><br><del>sale on site (e.g., bakery, brewery, fine art, electronic equipment, and similar productions) subject to retail use provisions</del><br>- <u>general manufacturing for sale off-site</u>  | <del>N</del><br><br>N                        | <del>P</del><br><br>U        | <del>P</del><br><br>U        | <del>P</del><br><br>N        | <del>P</del><br><br>U | <del>P</del><br><br>U |
| Mini Warehouse [Sec. 3-414]  | N  | N                            | U(S)<br>)                    | <u>U(S)</u><br>N             | U(S)                  | S                     |

(a) Security plan required. See Appendix B.4.

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**Table 3-202A – Permitted Land Uses  
(R/O, CC, CSS, PCC, RCC)**

|  | Uses                          | Status of Use in District     |                               |                      |                      |  |
|--|-------------------------------|-------------------------------|-------------------------------|----------------------|----------------------|--|
|  | R/O                           | CC                            | CS S                          | PC C<br>1            | RCC<br>2             |  |
| Offices  | P                             | P                             | P                             | P                    | P                    | P  |
| Outdoor Storage of equipment, goods, or materials,<br><del>except</del><br><del>-nursery or boutique</del><br><del>-vehicles, heavy equipment</del><br><del>-other storage</del><br>(See also, Vehicle Sales, Rental, Service) | N<br>N<br>N<br>N              | N<br>U<br>N<br>U              | N<br>P<br>U<br>U              | U<br>P<br>U<br>U     | U<br>P<br>U<br>U     | U<br>P<br>P<br>P                           |
| Parking Facilities <u>Commercial Surface Structure</u><br><br><del>surface parking, private</del><br><del>-parking structure (parking lid, garage, or similar)</del><br>- surface parking, public                              | N<br>N<br><br>P<br>U<br><br>P | U<br>P<br><br>U<br>P<br><br>P | U<br>U<br><br>P<br>P<br><br>P | P<br>U<br><br>P<br>P | P<br>U<br><br>P<br>P | P<br>P<br><br>P <sup>g</sup><br>P<br><br>P |
| Photography Studio [sec – 3-417]   | P                             | P                             | P                             | P                    | P                    | P  |
| <u>Public Uses (PUT OLD CIVIC USES HERE)</u><br><u>Civil facilities</u><br><u>Municipal Facilities</u><br><br><del>Processing of Raw Materials, except as provided under “manufacturing”</del>                                 | P<br>U<br><br>N               | P<br>U<br><br>N               | P<br>U<br><br>N               | P<br>U<br><br>N      | P<br>U<br><br>N      | P<br>U<br><br>N                            |
| Radio and Television Studios with Receiving and Transmitting Towers  | N                             | N                             | U                             | U                    | U                    | P  |
| Residential, caretaker residence   | P                             | P                             | P                             | <del>P</del> U       | <del>P</del> U       | P  |
| Residential, except caretaker residence  | P                             | <del>P</del> S                | N                             | U                    | U                    | N  |

**(a) Security plan required. See Appendix B.4.**

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(R/O, CC, CSS, PCC, RCC)**

| Uses  | Status of Use in District |          |          |              |          |          |
|---|---------------------------|----------|----------|--------------|----------|----------|
|   | R/O                       | CC       | CS<br>S  | PC<br>C<br>1 | RCC<br>2 |          |
| Restaurants—outdoor seating [Security Plan required]  | N                         | P        | P        | P            | P        | P        |
| Restaurants (a) [Sec. 6-309, Security Plan]   | <u>N</u>                  | <u>P</u> | <u>P</u> | <u>P</u>     | <u>P</u> | <u>P</u> |
| - with drive-in or drive-through, except within Light Rail Station Area [Sec. 5-107]  | N                         | N        | S        | S            | S        | S        |
| - without a drive-through   | N                         | P        | U        | P            | P        | P        |
| - entertainment as accessory use (a) [Sec. 6-309, Security Plan]  | N                         | U        | U        | U            | U        | P        |
| - With liquor license (a)   | <u>N</u>                  | <u>P</u> | <u>P</u> | <u>P</u>     | <u>P</u> | <u>P</u> |
| - Outdoor Dining (a)  | <u>N</u>                  | <u>P</u> | <u>P</u> | <u>P</u>     | <u>P</u> | <u>P</u> |
| Retail Sales, except as modified below:   | N                         | P        | P        | P            | P        | P        |
| - drive-through or drive-in [Sec. 3-415]  | S                         | N        | S        | S            | S        | S        |
| - outdoor display retailing related to special events, temporary [Sec. TCC Sec. 5-2]  | N                         | <u>S</u> | <u>U</u> | <u>N</u>     | <u>U</u> | <u>N</u> |
| - smoke shops,  |                           |          |          |              |          |          |
| - pawn shops (a), tattoo shops (See also, Vehicle Sales)  | N                         | U        | U        | U            | U        | U        |
| <u>Outdoor Retailing related to special sporting events, temporary</u><br><u>(Add special standards for outdoor retailing (current ord.) and outdoor display)</u> | <u>N</u>                  | <u>S</u> | <u>S</u> | <u>S</u>     | <u>S</u> | <u>S</u> |
| (a) security plan required. See Appendix B.4. (place as footnote)   |                           |          |          |              |          |          |

| Uses | Status of Use in District |
|------|---------------------------|
|------|---------------------------|

**(a) Security plan required. See Appendix B.4.**

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| Uses   | Status of Use in District |      |      |       |      |      |
|--|---------------------------|------|------|-------|------|------|
|  | R/O                       | CC   | CSS  | PCC1  | RCC  |      |
| Tutoring/After School Learning Center  | P                         | P    | P    | P     | P    | P    |
| Vehicle <del>Sales, Rental:</del>  |                           |      |      |       |      |      |
| - <del>Sales, Rental</del>   | N                         | N    | U    | U     | U    | P    |
| - <del>Vehicle repair/service</del>  |                           |      |      |       |      |      |
| - <del>oil change, similar fast service, major [sec -]</del>                     | N                         | UN   | U    | U     | U    | PN   |
| - <del>minor [sec -]</del>   |                           |      |      |       |      |      |
| - <del>use not enclosed in building</del>  | N                         | N    | U(S) | U     | U    | U    |
| - <del>enclosed in building</del>  | N                         | N    | )    | N     | U    | P    |
| - <del>service station/fuel sales/service station [Sec. 3-416]</del>             | N                         | NU   | U    | U(S)  | U(S) | PS   |
| - <del>car wash, self service [Sec. 3-415]</del>                                 | N                         | U    | U(S) | U(S)  | U(S) | U    |
| - <del>car wash, full service [Sec. 3-415]</del>                                 | N                         | S)   | )    | NU    | U    | S)   |
|  | N                         | UN   | U(S) | NU(S) | U(S) | PP   |
|  |                           | U    | U    | S)    | )    | S    |
| Warehouse <del>Commercial:</del>   |                           |      |      |       |      |      |
| - <del>in conjunction with sales on-site, subject to retail use provisions</del> | N                         | P    | P    | P     | P    | P    |
| - <del>not in conjunction with sales on-site</del>                               | N                         | N    | N    | N     | N    | N    |
| - <del>computer hotels and similar technology facilities</del>                   | N                         | N    | N    | N     | N    | N    |
| Wholesale:   |                           |      |      |       |      |      |
| - <del>showroom</del>  | U                         | P    | P    | P     | P    | P    |
| - <del>not in a building</del>   | N                         | U    | U    | U     | U    | N    |
| Wireless Telecommunication Facilities [Sec. 3-413]                               | U(S)                      | U(S) | U(S) | U(S)  | U(S) | U(S) |

(a) Security plan required. See Appendix B.4.

**Key:**

P = Permitted  
S = Permitted with special standards or limitations  
U = Use permit required  
N = Not permitted

R/O = Residence/Office  
CC = City Center  
CSS = Commercial Shopping and Services  
PCC1 = Planned Commercial Center Neighborhood  
PCC2 = Planned Commercial Center Comprehensive  
RCC = Regional Commercial Center

| Uses  | Districts  |  |  |  |
|---|--|--|--|--|
|   | MU-1   | MU-2   | MU-3   | MU-4   |
| Cemeteries, Crematoriums and Mausoleums   | N  | N  | N  | N  |
| Bakery  | P  | P  | P  | P  |
| Bed and Beakfast  | P  | P  | P  | P  |
| Brewery (a)   | U  | U  | P  | P  |
| Childcare Center  | P  | P  | P  | P  |
| <del>Civic Uses</del> Public Uses<br><del>- Civic facilities/parks</del><br><br><del>- Municipal facilities</del><br><del>-customer serving (e.g., post office, library, city offices)</del><br><del>-open space, parks, similar uses</del><br><del>(See also, Schools)</del>   | <del>U</del> P<br><br><del>P</del> N   | P<br><br><del>P</del> N  | P<br><br><del>P</del> N  | P<br><br><del>P</del> N  |
| Clinic (medical, dental, veterinary (small animals))  | <del>N</del> P   | P  | P  | P  |
| <del>Clubs, Institutions, Nonprofit Org.</del><br><del>- with meeting facilities</del><br><del>- without meeting facilities</del> lodges & similar organization (a)<br><del>- teen nightclub (dance hall) (a)</del><br><del>- bar, tavern, nightclub (a)</del>  | <del>N</del> U<br><br><del>P</del> N<br><del>N</del>                         | <del>U</del> P<br><br><del>P</del> N<br><del>U</del>                         | P<br><br><del>P</del> U<br><del>U</del>                                      | P<br><br><del>P</del> P<br><del>P</del>                                      |
| Entertainment, <del>Except Adult Oriented Business</del><br><del>which are not allowed</del><br><del>- enclosed in a building (e.g., theater, amusement businesses, similar use) (Sec. 6-300, Security Plan)</del><br><del>- not enclosed and not temporary (e.g., drive-in or other outdoor use)</del><br><del>- theater or similar use</del><br><del>- amusement (arcade) (a)</del><br><del>- outdoor/permanent use</del> | <del>U</del><br><del>U</del><br><del>N</del><br><del>N</del><br><del>N</del> | <del>U</del><br><del>P</del><br><del>U</del><br><del>U</del><br><del>N</del> | <del>P</del><br><del>P</del><br><del>U</del><br><del>U</del><br><del>N</del> | <del>P</del><br><del>P</del><br><del>P</del><br><del>P</del><br><del>N</del> |

MU-1 = Low – Medium Density District  
 MU-2 = Medium Density District  
 MU-3 = Medium – High Density District  
 MU-4 = High Density District

**Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)**

| Uses   | Districts  |   |   |   |
|--|--|---|---|---|
|  | MU-1   | MU-2  | MU-3  | MU-4  |
| Financial Institutions<br>- <u>with drive-through</u>  | P<br><u>N</u>  | P<br><u>N</u>   | P<br><u>U</u>   | P<br><u>P</u>   |
| Fine Arts Class Instruction  | P  | P   | P   | P   |
| Freight Transportation and Distribution  | N  | N   | N   | <u>UN</u>   |
| Hospitals, except clinics  | N  | N   | U   | U   |
| Hotels and Motels <u>[Sec. 6-309, Security Plan] (a)</u>   | N  | U   | P   | P   |
| Industrial Service (e.g., cleaning, repair, and similar services)  | P  | P   | P   | P   |
| Live-Work [Sec. 3-409]   | P  | P   | P   | P   |
| Manufacturing/Production:<br>- <u>sale on site (e.g., bakery, brewery, fine art, electronic equipment, and similar productions) subject to retail use provisions</u><br>- <u>general manufacturing for sale off site</u>   | P<br><u>U</u>  | P<br><u>U</u>   | P<br><u>U</u>   | P<br><u>U</u>   |
| Mini Warehouse [Sec.3-414]   | N  | N   | <u>U(S)</u> <u>N</u>  | <u>U(S)</u> <u>N</u>  |
| Offices, <u>except clinics</u>   | P  | P   | P   | P   |
| Outdoor Storage of equipment, goods, or materials:<br>- <u>nursery or similar goods (household plants and gardening supplies)</u><br>- <u>construction materials (aggregate, dirt, etc.)</u><br>- <u>vehicles, heavy equipment</u><br>- <u>other storage</u><br>(See also, Vehicle Sales, Rental, Service) | <u>N</u><br><u>U</u><br><br><u>N</u><br><u>N</u><br><u>N</u> | <u>N</u><br><u>P</u><br><br><u>N</u><br><u>N</u><br><u>U(S)</u> | <u>N</u><br><u>P</u><br><br><u>N</u><br><u>U</u><br><u>U(S)</u> | <u>N</u><br><u>P</u><br><br><u>N</u><br><u>U</u><br><u>U(S)</u> |
| Parking <u>Facilities</u> <u>Commercial</u> :<br>- <u>surface parking, private</u><br>- <u>parking structure (parking lot, garage, or similar)</u><br>- <u>surface parking, public</u>   | <u>PN</u><br><u>PN</u><br><br><u>P</u>                       | <u>PN</u><br><u>PN</u><br><br><u>P</u>                          | <u>PU</u><br><u>PU</u><br><br><u>P</u>                          | <u>PU</u><br><u>PU</u><br><br><u>P</u>                          |
| Photography Studio, except <u>adult</u> oriented businesses  | P  | P   | P   | P   |

(a) Security plan required. See Appendix B.4.

**Key:**

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

MU-1 = Low – Medium Density District

MU-2 = Medium Density District

MU-3 = Medium – High Density District

MU-4 = High Density District

| Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)   |   |   |   |   |
|---|---|---|---|---|
| Uses  | Districts   |   |   |   |
|   | MU-1  | MU-2  | MU-3  | MU-4  |
| <del>Processing of Raw Materials, except as provided under “manufacturing”</del>  | <del>N</del>  | <del>N</del>                                | <del>N</del>  | <del>N</del>                                |
| <del>Radio and Television Studios with Receiving and Transmitting Towers</del>  | <del>N</del>  | <del>N</del>                                | <del>U</del>  | <del>U</del>                                |
| Residential caretaker residence   | P   | P   | P   | P   |
| Residential   | P   | P   | P   | P   |
| <del>Restaurants — outdoor seating [Sec. 6-309, Security Plan]</del>  | <del>P</del>  | <del>P</del>                                | <del>P</del>  | <del>P</del>                                |
| Restaurants [Sec. 6-309, Security Plan]<br>with drive-in <del>up</del> or drive-through [Sec. 3-415]<br>- <del>without a drive-through</del> <u>outdoor seating</u><br>- entertainment as accessory use <u>(a)</u> [Sec. 6-309, Security Plan]<br>- <u>with liquor license (a)</u>  | <del>P</del><br>N<br><u>UP</u><br>U<br><br><u>P</u> | <del>P</del><br>N<br>P<br>U<br><br><u>P</u> | <del>P</del><br><u>UU</u><br>P<br>U<br><br><u>P</u> | <del>P</del><br>P<br>P<br>P<br><br><u>P</u> |
| <u>Retail Sales:</u><br>- <u>drive-through [Sec. 3-415]</u><br>- <u>outdoor retailing related to special sporting events, temporary</u><br>- <u>smoke shops,</u><br>- <u>pawn shops (a)</u><br><del>Retail Sales, except as modified below:</del><br><del>- with drive-through or drive-up [Sec. 3-415]</del><br><del>- outdoor retailing related to special events, temporary [TCC Sec. 5-2]</del><br><del>- smoke shops, pawn shops, tattoo shops (See also, Vehicle Sales)</del> | P<br>N<br>N<br><br><u>NS</u>                        | P<br>N<br><u>UN</u><br><br><u>NS</u>        | P<br>U(S)<br><u>US</u><br><br><u>US</u>             | P<br>S<br><u>US</u><br><br><u>US</u>        |



**Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)**

| Uses  | Districts                                   |  |  |  |
|---|---|--|--|--|
|   | MU-1  | MU-2   | MU-3   | MU-4   |
| Schools, private <del>&amp; charter</del> ; <del>may</del> including <del>preschool, primary, secondary, college, vocational, charter, and other schools</del> <u>dormitories</u>   | U   | U  | <u>PU</u>                                    | <u>PU</u>                                    |
| Schools, public   | P   | P  | P  | P  |
| Services – personal or business <u>(e.g. beauty, drycleaner)</u> , <del>except:</del><br><del>- bars, cocktail lounges, taverns and similar businesses [Sec. 6-309, Security Plan]</del><br><del>- with drive-through- (e.g. dry cleaner) or drive-up [Sec. 3-415]</del><br><del>- kennel facilities</del><br><del>- smoke shops, pawn shops, tattoo shops, piercing facilities</del><br><del>- Courier/Delivery Service</del><br><del>- Catering Service</del><br>(See also Vehicle Service) | P<br>N<br><br>N<br><br>U<br>N<br><br>U<br>U | P<br>N<br><br>NS<br><br>U<br>N<br><br>U<br>P | P<br>U<br><br>PS<br><br>U<br>U<br><br>P<br>P | P<br>P<br><br>PS<br><br>U<br>U<br><br>P<br>P |
| Similar Uses: <u>Any use similar to, and not more detrimental than the uses permitted herein, as determined by the zoning administrator, may be permitted upon securing a use permit</u> [Sec. 6-301]   | U   | U  | U  | U  |
| <del>Towing services:</del><br><del>-with storage of towed vehicles</del><br><del>- without storage of towed vehicles</del>   | N<br>N                                      | N<br>N                                       | U<br>P                                       | U<br>P                                       |
| Tutoring/After School Learning Center   | P   | P  | P  | P  |
| <del>Vehicle Sales, Rental, and Service:</del><br><del>-use not enclosed in building</del><br><del>-enclosed in building</del><br><del>-fuel sales/service station [Sec. 3-416]</del><br><del>-car wash, self service [Sec. 3-415]</del><br><del>- car wash, full service [Sec. 3-415]</del>  | N<br>N<br>N<br>N<br>N                       | U<br>P<br>U(S)<br>U<br>U(S)                  | P<br>P<br>U(S)<br>U<br>U(S)                  | P<br>P<br>S<br>U<br>U(S)                     |

(a) Security plan required. See Appendix B.4.

**Key:**

P = Permitted  
 S = Permitted with special standards or limitations  
 U = Use permit required  
 N = Not permitted

MU-1 = Low – Medium Density District  
 MU-2 = Medium Density District  
 MU-3 = Medium – High Density District  
 MU-4 = High Density District

**Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4)**

| Uses  | Districts   |             |             |                           |
|---|-------------|-------------|-------------|---------------------------|
|   | MU-1        | MU-2        | MU-3        | MU-4                      |
| Warehouse:  |             |             |             |                           |
| <del>-in conjunction with sales on-site, subject to retail use provisions</del> | P           | P           | P           | <del>P<sup>17</sup></del> |
| <del>-not in conjunction with sales on-site</del>                               | N           | N           | N           | N                         |
| <del>-computer hotels and similar technology facilities</del>                   | N           | N           | N           | N                         |
| Wholesale showroom:   |             |             |             |                           |
| <del>-enclosed in a building</del>  | U           | P           | P           | P                         |
| - not enclosed in a building  | N           | N           | N           | U                         |
| Wireless Telecommunication Facilities [Sec. 3-413]                              | <u>U(S)</u> | <u>U(S)</u> | <u>U(S)</u> | <u>U(S)</u>               |

(a) Security plan required. See Appendix B.4.

**Key:**

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MU-1 = Low – Medium Density District  
 MU-2 = Medium Density District  
 MU-3 = Medium – High Density District  
 MU-4 = High Density District

## Chapter 3 –Uses Permitted in Office/Industrial Districts

Section 3-301 Purpose and Applicability.

Section 3-302 Permitted Uses in Office/Industrial Districts.

Section 3-301 Purpose and Applicability.

- A. Purpose.** The Industrial districts are designed to provide for office/industrial business involved in research, warehousing, wholesaling, and manufacturing. The facilities range in degree of intensity from administrative and research institutions to bulky assembly and concentrated productivity. The industrial districts allow the wide gamut of industrial uses, as expressed below.
- B. Applicability.** Industrial uses are accommodated in three districts:
1. Office ~~Industrial~~-Buffer District (~~IBD~~OBD). Administrative and research industries, offices, and limited manufacturing to provide opportunities for employment for and protection to neighborhood residential areas;
  2. Light Industrial District (~~I-1~~LID)~~—and General Industrial District (I-2).~~ Office uses, Warehousing, wholesaling, assembling and manufacturing of building materials, machinery and other commodities to provide employment centers and production; and
  3. Heavy Industrial District (~~I-3~~HID). Intensive manufacturing, fabricating, and storage to provide for concentrated industrial uses.
- C. Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the development standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any overlay district requirements that are applicable. Uses permitted with special standards or limitations (“S” type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See appendix.

## Section 3-302 Permitted Uses in Office/Industrial Districts.

Table 2-302A identifies land uses according to permit status. See key below the table:

| Table 3-302A Permit Uses  |                               |                              |               |                              |
|---|-------------------------------|------------------------------|---------------|------------------------------|
| Uses  | Districts                     |                              |               |                              |
|   | <del>IBD</del> <del>OBD</del> | <del>I1</del> <del>LID</del> | <del>I2</del> | <del>I3</del> <del>HID</del> |
| Accessory Use   | P                             | P                            | <del>P</del>  | P                            |
| Adult businesses<br>[Sec. 3-417, <del>and Sec. 6-309, Security Plan</del> ]   | N                             | S                            | <del>S</del>  | S                            |
| All uses permitted may include wholesaling, repairing, storage, and rental activities   | N                             | P                            | <del>P</del>  | P                            |
| Animal kennels, <del>veterinary offices with or without kennels,</del> and animal hospitals   | N                             | <del>UP</del>                | <del>U</del>  | <del>UP</del>                |
| <del>Any retail use allowed in the CC district, provided all retail uses on the premises do not exceed 10 percent of the gross floor area of the primary industrial use.</del> Retail commercial operations directly related to the primary industrial use may be permitted, provided they do not exceed fifteen (15%) of the primary industrial use. | <del>PN</del>                 | <del>NP</del>                | <del>N</del>  | <del>NP</del>                |
| Any retail use allowed in the following districts may be allowed with a use permit [sec 3-202].<br>a. <del>CG</del><br>b. <del>MU</del><br>c. <del>CSS</del><br>d. <del>RCC</del>   | <del>UN</del>                 | U                            | <del>U</del>  | U                            |
| <u>Similar Use:</u> Any use similar to, and not more detrimental than the uses permitted herein, as determined by the zoning administrator, may be permitted upon securing a use permit   | U                             | U                            | <del>U</del>  | U                            |
| Auto Body Repair  | <del>UN</del>                 | <del>UP</del>                | <del>U</del>  | <del>UP</del>                |
| Automobile <del>parts, supplies, salvage, or wrecking</del>   | N                             | N                            | <del>N</del>  | P                            |
| Ball bearing, <del>boxes or cabinets</del> manufacturing  | N                             | <del>UU</del>                | <del>U</del>  | P                            |

### Key:

P = Permitted  
S = Permitted with special standards or limitations  
U = Use permit required  
N = Not permitted

~~O~~BD = ~~Industrial-Office~~ Buffer District  
~~I1~~~~LID~~ = Light Industrial District  
~~I2~~ = ~~General~~ District  
~~I3~~~~HID~~ = Heavy Industrial District

| Table 3-302A Permit Uses   |                               |                              |               |                              |
|--|-------------------------------|------------------------------|---------------|------------------------------|
| Uses   | Districts                     |                              |               |                              |
|  | <del>IBD</del> <del>OBD</del> | <del>I1</del> <del>LID</del> | <del>I2</del> | <del>I3</del> <del>HID</del> |
| <del>Boxes or cabinets, manufacturing</del>  | N                             | U                            | U             | P                            |
| Cement and paving material mixing plant  | N                             | N                            | N             | P                            |
| Chocolate, cocoa or coffee roasting or manufacturing   | N                             | U                            | U             | P                            |
| Computer centers, including computer hotels and similar technology facilities                  | P                             | P                            | P             | P                            |
| Electronic instruments and devices, assembling and manufacturing                               | P                             | P                            | P             | P                            |
| Exterminator and insect poison manufacturing   | N                             | N                            | N             | P                            |
| Extraction of sand, gravel and other natural resources   | N                             | N                            | N             | SU                           |
| Farming, landscaping and agricultural supplies and equipment, wholesaling and storage          | N                             | P                            | P             | P                            |
| Foundry casting light-weight, nonferrous metal, not causing noxious odors or fumes             | N                             | NU                           | N             | P                            |
| Fuel distributing station, gasoline (bulk plant)   | N                             | U                            | U             | P                            |
| Gasoline and petroleum bulk storage tanks  | N                             | N                            | N             | P                            |
| House-movers, equipment storage or wrecking yards  | N                             | N                            | N             | P                            |
| Ice manufacturing and storage  | N                             | U                            | U             | P                            |
| Industrial, scientific, or business research, development and testing laboratories and offices | P                             | P                            | P             | P                            |
| Junkyards  | N                             | N                            | N             | P                            |
| <del>Clinics: General, Medical, and dental, and veterinary office buildings and clinics</del>  | P                             | P                            | P             | P                            |
| <u>Offices</u>   | <u>P</u>                      | <u>P</u>                     |               | <u>P</u>                     |
| Mini-warehouse [Sec. 3-414]  | N                             | U(S)                         | U(S)          | U(S)                         |

**Key:**

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

IBD = Industrial Buffer District

I1 = Light Industrial District

I2 = General District

I3 = Heavy Industrial District

Table 3-302A Permit Uses

| Uses   | Districts                     |                              |               |                              |
|--|-------------------------------|------------------------------|---------------|------------------------------|
|  | <del>IBD</del> <del>OBD</del> | <del>I1</del> <del>LID</del> | <del>I2</del> | <del>I3</del> <del>HID</del> |
| Mobile home or trailer as a residence for a caretaker or operator employed on the premises. The residence may include the family of the caretaker.   | U                             | U                            | U             | U                            |
| Motion picture studios   | P                             | P                            | P             | P                            |
| Residence of a caretaker or operator employed on the premises; such residence may include the family of the caretaker  | P                             | P                            | P             | P                            |
| <del>Residential Multiple Family</del><br><del>—above office use, on second story or above</del>   | P                             | N                            | N             | N                            |
| <del>Similar Uses [Sec. 6-304]</del><br><del>Stadium, Arenas</del>   | N                             | U                            |               | P                            |
| Temporary construction offices and shed, appurtenant signs and storage incidental to a construction project only for the duration of such project, not to exceed <del>eighteen</del> <del>twenty-four</del> (24 <del>18</del> ) months | P                             | P                            | P             | P                            |
| Warehouse  | N                             | P                            | P             | P                            |
| Wireless Telecommunication [See Section 3-413]   | S                             | S                            | S             | S                            |
| <del>Wood Products, manufacturing</del>  | N                             | P                            |               | P                            |

## Key:

P = Permitted  
 S = Permitted with special standards or limitations  
 U = Use permit required  
 N = Not permitted

IBD = Industrial Buffer District  
 I1 = Light Industrial District  
 I2 = General District  
 I3 = Heavy Industrial District

## Chapter 4 – Special Use Standards

- Section 3-401      Accessory Dwellings.
- Section 3-402      Accessory Building Uses and Structures.
- Section 3-403      Agricultural Uses.
- Section 3-404      Bed and Breakfast.
- Section 3-405      Boutique.
- Section 3-406      Day Care, In Home 7-10 Children.
- Section 3-407      Group Homes for Adult Care, Disabled, and Child Shelter.
- Section 3-408      Home Occupation.
- Section 3-409      Live-Work.
- Section 3-410      Mobile Homes.
- Section 3-411      Residential Sales Office, Temporary.
- Section 3-412      Second Story Addition or Rebuild.
- Section 3-413      Wireless Telecommunication Facilities.
- Section 3-414      Mini Warehouse.
- Section 3-415      Drive-Through Facilities.
- Section 3-416      Fuel Sales/Service Station Accessory Use.
- Section 3-417      Adult Businesses.

### Section 3-401      Accessory Dwellings.

Accessory dwelling units –(ADUs) are permitted in the multifamily districts when a property contains a single family residence, ~~with a use permit in the AG district~~ provided the following standards are met:

- A.      Subject to approval of a use permit;
- A.B.    **Building Codes.** Comply with applicable building codes and structural specialty codes;

**B.C.** **One ADU per Lot.** A maximum of one accessory dwelling unit is allowed per ~~single-multi~~ family dwelling lot; Only accessory dwelling units shall be used for sleeping or living purposes, and they shall conform to the standards in Section 3-401.

**C.D.** **Floor Area.** The maximum floor area of the accessory dwelling shall not exceed 600 square feet. ~~Dwellings in excess of 600 square feet are considered duplexes, if attached to the primary dwelling, or second dwellings if not attached;~~

**D.E.** **Parking.** ~~One off-street parking space shall be provided for the accessory dwelling;~~

**E.F.** **Development Standards.** Comply with the setback, building height, lot coverage, and other applicable development standards;

**F.G.** **Infrastructure.** Sewer, water and utility services shall be provided to the dwelling in conformance with City standards.

## Section 3-402 Accessory Building, Uses, and Structures and structures.

**A. Applicability.** Accessory uses and structures shall be incidental to the principal use. They must occupy less floor area, cover less lot area, and have a use that is secondary to the primary structure(s) and use(s) on the property. Need to define "Building" and "Structure" better in this Applicability.

**B. Accessory Uses:** Buildings may be used for home occupations in reference to sec 3-408.

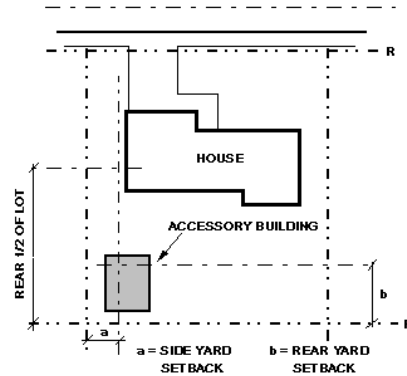
**B.C. Accessory Building – Relationship to Other Uses.** Accessory buildings shall not be used for sleeping or living purposes, shall not have cooking facilities, are limited to the height of the existing residence, and meet the setbacks for the district. ~~may be used for home occupations, in conformance with Section 3-408. Only accessory dwelling units shall be used for sleeping or living purposes, and they shall conform to the standards in Section 3-401.~~ Suggest examples in definition. Look at setback requirements – detached accessory building (garage). Suggest pushing it back further into the lot past rear setback. Have flexibility to have requirement, not required.

**C.D. Accessory Building Structure–Location.** An accessory ~~building-structure~~ shall be located behind the front yard setback, limited to a maximum 120 s.f. in area, is equal to or less than 8 feet in height, and may encroach into the rear, side, and street side yard setback , provided that required separation for fire protection is provided and the following standards are met. ~~on the same lot with the principal building. Accessory buildings shall conform to all regulations of the zone district wherein it exists and conform to the following standards:~~

- ~~1. All accessory buildings that are not attached to the primary dwelling shall be set back a minimum of 25 feet from the public street providing~~

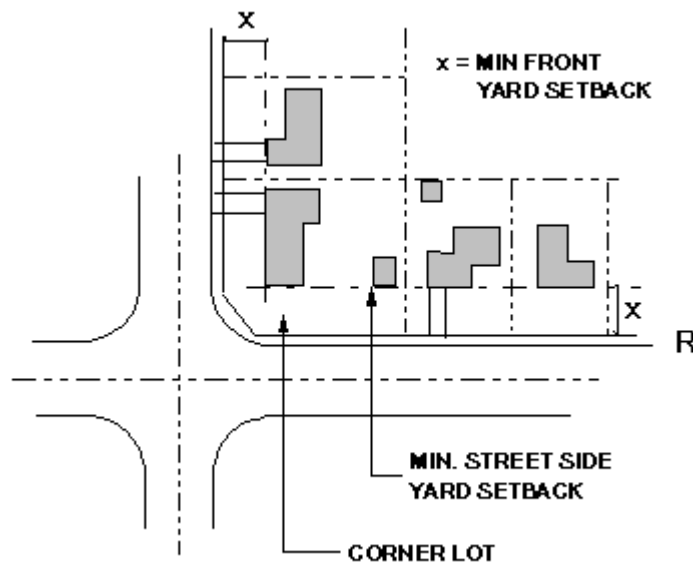


~~vehicle access to the primary building. These buildings may encroach into the standard rear and side yard setbacks, provided that required separation for fire protection is provided and the following standards are met:~~

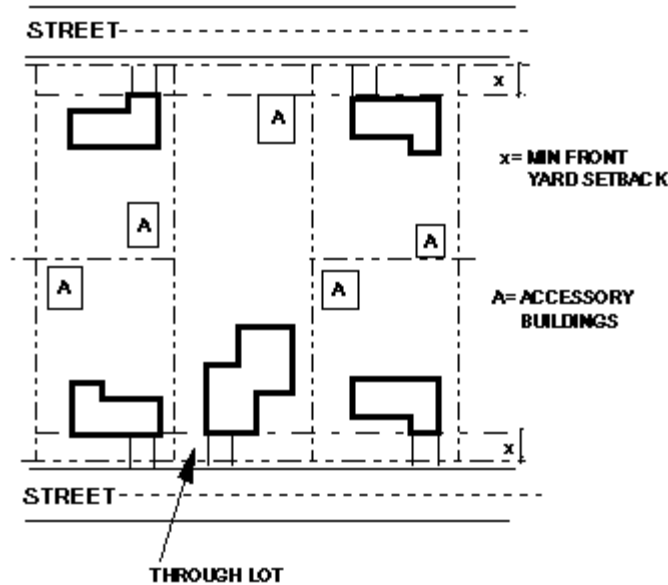


Revise graphic

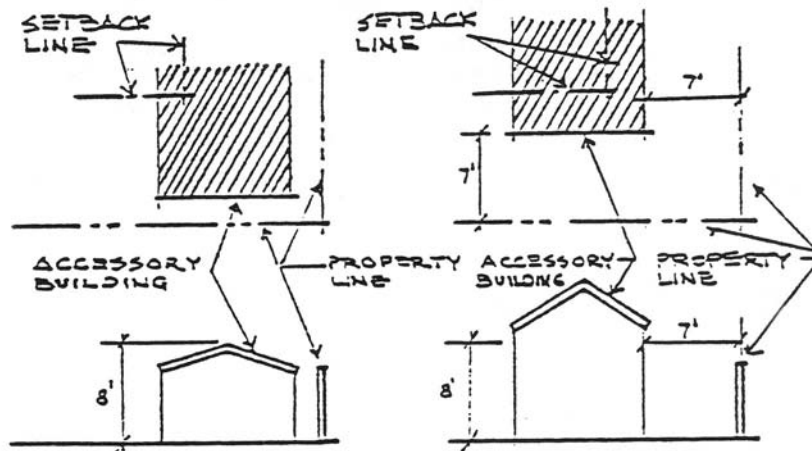
- a. ~~On a corner lot, the accessory building shall not be located closer to the street side property line than that required for the main building.~~ On a lot in the AG district, ~~the~~ an accessory ~~building~~ building structure shall not be located closer than twenty (20) feet from rear and side property lines;



- b. On a through lot, ~~the~~ an accessory ~~building~~ building structure shall not be located closer to the rear property line than the distance required for front yard setback;



- c. ~~An accessory building exceeding eight (8) feet in height or six hundred (600) square feet shall not be located closer than seven (7) feet to any property line.~~

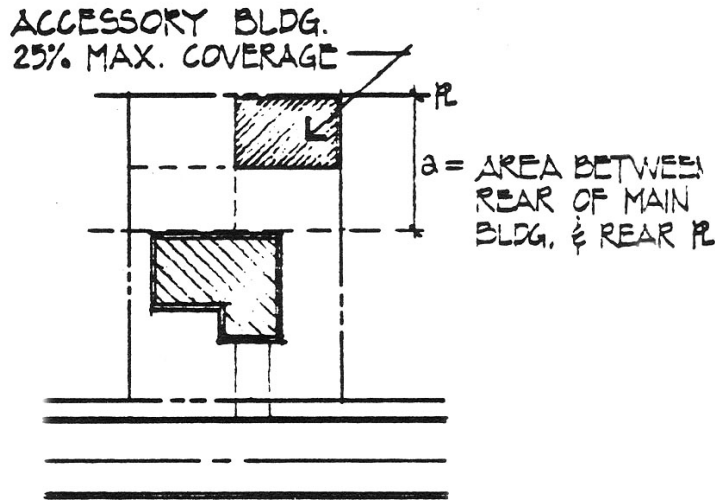


Structure

Building (see example)  
Delete 7' on graphic and write "setback"

2. ~~Any building that is accessory to any residential building shall not be erected to a height exceeding fifteen (15) feet in an AG or R1 District; except that an accessory structure may exceed 15 feet in height when the rear yard setback is increased by one (1) foot for every one (1) foot of building height over 15 feet. Buildings shall not exceed the height limitation of the underlying zone. Exception: o~~On a residential lot in the AG district, a shelter for the keeping of animals or fowl may be erected to the maximum height allowable for the main building in that district; and

3. ~~An accessory buildings shall not occupy more than twenty five percent (25%) of the area lying between the rear of the main building and the rear property.~~



Delete Graphic

### Section 3-403 Agricultural Uses.

Agricultural uses are permitted in the AG district and shall conform to the following standards:

- A. Farming.** Farming, including all types of agriculture and horticulture, such as flower and vegetable gardening, field crops, berry and bush crops, tree crops, and orchards, and their storage.
- B. Livestock.** The keeping of livestock, including cattle, horses, sheep, goats or similar animals except the keeping of swine. The number of such livestock permitted shall be calculated on the basis of one horse, cow or similar animal, or two (2) sheep, goats or similar animal for each six thousand (6,000) square feet of net lot area after deducting one-half (1/2) acre for the home site. Fractions greater than five-tenths (5/10) of a whole number shall be rounded up to the next whole number. [Fractions sentence needs to be a stand alone standard somewhere in draft] The total aggregate of all such animals permitted shall be twenty-four (24). Animals of six (6) months or younger shall not be counted.
- C. Apiaries.** Apiaries, upon the following conditions:
  1. Occupied bee hives shall be at least two hundred (200) feet from any existing dwelling on another property;
  2. Occupied bee hives shall have a minimum separation of fifty (50) feet to any property line; and

3. Occupied bee hives shall have a minimum separation of one hundred and fifty (150) feet to any street or bridle path.
- D. **Grazing.** The grazing and keeping of cattle, sheep or horses, except swine on a site of five (5) or more acres; including the supplementary feeding of such cattle, sheep, or horses, provided such grazing is not a part of, nor conducted in conjunction with any dairy or livestock sales yard located on the same premises; and
- E. **Processing of Farm Products.** Farming and processing of farm products, customarily conducted on farms, is permitted on a site of five (5) or more acres;
- F. **Horse Ranch.** A commercial horse ranch may be permitted with a minimum net site of ten (10) acres or more.
- G. **Dairy Farm.** A dairy farm may be permitted with a net site area of forty (40) acres or more.

#### Section 3-404      **Bed and Breakfast.**

Bed and breakfast use is allowed in all districts permitting residential use, subject to approval of a use permit and conformance to the following standards:

- A. **Accessory Use.** A bed and breakfast facility must be accessory to a residential use on the subject site. This means that the individual or family who operates the facility must occupy the house-dwelling as their primary residence. ~~The house must be at least 5 years old before a bed and breakfast facility is allowed.~~
- B. **Maximum Size.** Bed and breakfast facilities are limited to a maximum of 5 bedrooms for guests and the maximum occupancy per night shall be established by use permit.
- C. **Employees.** Bed and breakfast facilities may have nonresident employees for the lodging activity such as booking rooms and food preparation, if approved as part of the use permit. Hired service for normal maintenance, repair and care of the residences or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of the use permit approval.
- D. **Service to Guests.** Food services may only be provided to overnight guests of a bed and breakfast in single-family (R1)residential districts, ~~and in the R2 district;~~ food service all may be provided to overnight guests and other guests in ~~the R3, R4, R5, and~~ all mixed-use (MU) districts. Any other service is subject to the use requirements of the land use district.
- E. **Meetings and Social Gatherings.**
  1. Commercial meetings – Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising

activities, or other gatherings for direct or indirect compensation are prohibited at a bed and breakfast facility.

2. Private social gatherings – The residents of bed and breakfast facilities may be allowed to have social gatherings, parties, or meetings if authorized in the use permit.

### Section 3-405      **Boutique.**

Home, religious organization, or not-for-profit service organization boutiques are permitted in residential districts, and shall conform to the following conditions:

- A. Enclosed.** The boutique shall be carried on wholly within a dwelling unit, school (private), or a place of worship.
- B. Products Sold.** The boutique shall primarily sell locally handcrafted items;
- C. Operation.** The boutique shall operate for not more than any five (5) consecutive days in each one-half (1/2) calendar year at any one location. The activity shall be limited to the hours between 9:00 a.m. and 8:00 p.m.
- D. Impacts.** There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare produced by the boutique. The activity shall not generate such additional traffic and parking in the area of the boutique which would create a traffic or safety hazard;
- E. Signs.** All signs used by the boutique shall comply with this Code, Section 4-7-204 et seq.;
- F. Sales Tax.** The boutique shall comply with the applicable transaction privilege (sales) tax provisions of the Tempe City Code (TCC) §16-1 et seq.; and
- G. License.** The operator or sponsor of the boutique must apply for a city transaction privilege (sales) tax license a minimum of ten (10) days prior to the start of the boutique and obtain the license prior to conducting business.
- H. Violation.** Any violation of the above conditions shall cause the immediate revocation of the boutique's privilege to transact business within the city.

### Section 3-406      **Day Care, In Home 7-10 Children.**

Home day care for seven (7) to ten (10) children shall require a use permit and comply with the following conditions:

- A. License and Certified.** Licensed, certified or approved by the State of Arizona; and
- B. Administrative Review.** Such home is reviewed and approved by the City of Tempe, Development Services Department, for current building code and land

~~use code~~ ~~ordinance~~ compliance; complying with state regulations related to the operation of day care facilities. See Arizona Revised Statutes, Division 43.

### Section 3-407      Group Homes for Adult Care, Disabled, and Child Shelter.

Group homes for adult care, disabled, and child shelters shall comply with the following conditions:

- A.      **Distribution of Uses.** No such home or shelter is located on a lot within twelve hundred (1,200) feet, measured by a straight line in any direction, from the lot line of another group home;
- B.      **Occupancy.** The number of residents is limited by applicable state laws, including any minimum square footage requirement per person, but in no event shall the number of residents exceed ten (10);
- C.      **License.** Such home is licensed by, or certified by, or approved by, or registered with, funded by or through, or under contract or subcontract with, the State of Arizona. See Arizona Revised Statutes, Division 36; and
- D.      **Administrative Review Required.** Such home must be reviewed and approved by the Development Services Manager for building code and ~~ordinance~~ land use compliance prior to the use commencing.

## Section 3-408 Home Occupation.

Home occupations are permitted to ~~allow~~ encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. ~~Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses.~~ They are permitted ~~by~~ in all residential ~~units~~ (dwellings) as an accessory use [sec 7-102], subject to the following standards: *Need an intent section to make clear.*

### A. Appearance of Residence.

1. The home occupation shall be restricted to lawfully-built enclosed ~~structures~~ buildings and be conducted in such a manner as not to give an outward appearance of a business.
2. The home occupation shall not result in any structural alterations or additions to a ~~structure~~ building that will change its primary use or building code occupancy classification.
3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
4. Products and or equipment produced or used by the home occupation shall not be displayed ~~to be~~ or visible from outside any ~~structure~~ building.

### B. Storage.

1. ~~Outside storage, visible from the public right of way or adjacent properties, is prohibited.~~
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
3. ~~Storage of inventory, or products, and all other~~ equipment, fixtures, and activities associated with the home occupation shall be allowed in any ~~structure~~ building.

### C. Employees.

1. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one (1) full time equivalent employee at the home occupation site at any given time. As used in this chapter, the term *Ahome occupation site@* means the lot on which the home occupation is conducted.

2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
3. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

**D. Advertising and Signs.** Home occupations may display address numerals and an identification sign no more than 1 s.f. in size in accordance to shall comply with Section 43-7-401 et seq., related to signs permitted with residential uses.

**E. Vehicles, Parking and Traffic.**

1. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right of way when parked in the driveway or other location on the home occupation site. Vehicles associated with the home occupation must comply with TCC Sec. 21-4
2. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 9-10 p.m. to 7 a.m.
3. There shall be no more than one client's or customer's vehicle at any one time and no more than eight per day at the home occupation site. the activity shall not generate traffic beyond that normal in its district.

**F. ~~F.~~ Business Hours.** There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7 a.m. to 9-10 p.m. only, subject Sections A and E, above.

**G.** No offensive noise, vibrations, smoke, dust, odors, heat, or glare shall be produced. Relocate "G" and move to "A"

**H.** Prohibited Uses: motor vehicle repair, veterinary offices and kennels, restaurant. (look at Sec 2-19, 3, g. in 808 ordinance for language, but identify prohibited use listed above)

**Section 3-409 Live-Work.**

Live-work is permitted in all mixed-use (MU) districts and in the CC and R/O districts, and live work is permitted with a use permit in the PCC-1, PCC-2, and R5-all multifamily districts districts: In the R5 district, liveLive-work uses are subject to allowed subject to the standards for home occupations in Section 3-408, with the following exceptions:

[General throughout document: Need intent statement, articulate why, etc. better in purpose and intent sections at beginning.]



- A. **Employees.** ~~The home occupation may employ~~ Two (2) full time equivalent employees, in addition to the family members residing in the dwelling, may work on premises;
- B. **Signs.** Signs are permitted that do not exceed 16 square feet of combined area for all signs (wall, portable, blade, etc.), and comply with the standards for commercial use signs in 3-7-301 et seq.
- C. **Vehicles, Parking and Traffic.** The MU and CC districts are exempt from the standard in Sec. 3-408 E. The PCC-1, PCC-2, and all multifamily districts shall comply with Sec 3-408 E .

### Section 3-410 Mobile Homes.

- A. **Access.** A minimum of two (2) vehicular entrances shall be provided for each mobile home park, mobile home subdivision, and trailer park development. One entrance may be kept closed to the general public if provision is made for emergency access and if this entrance is not necessary to accommodate the volume of traffic generated by uses on the site.
- B. **Perimeter ~~Screening~~ Walls.** Perimeter boundaries of all mobile home parks, mobile home subdivisions and trailer parks shall ~~contain a screening~~ have a perimeter wall with a minimum height of ~~six-eight~~ (68) feet, measured from the highest adjacent grade within twenty (20) feet. The wall shall be of masonry or concrete construction, with architectural texture, finish, and color to be compatible with other buildings in the vicinity. The perimeter wall shall be designed to create an attractive appearance, incorporating elements such as recesses, piers, pilasters, contrasting courses and texture. The area between the wall and the public street shall be landscaped, and the wall may contain pedestrian access gate(s) allowing police and emergency access from the street, as approved through Design Review. ~~Landscape treatments adjoining~~ Street frontage landscape areas of mobile home and trailer park developments shall be maintained by the mobile home or trailer park operators.

### Section 3-411 Residential Sales Office, Temporary.

Temporary residential sales offices are permitted for the sale of homes being constructed on the premises and for a period not exceeding ~~eighteen~~ twenty-four (1824) months. Extensions of this time requires approval by the Hearing Officer or ~~Board of adjustment~~ Adjustment. The residential sales office is subject to the following conditions:

- A. **Location.** Temporary residential sales offices may be located in a building designed as a dwelling unit or in a modular office building located on the site.
- A.B. **Temporary Occupancy Permit.** Prior to use of the premises as a temporary residential sales office, a temporary occupancy permit shall be obtained from the development services manager; and

- B.C. Conversion and Final Approval of Dwelling.** Prior to the sale of any dwelling that has been used as a temporary residential sales office, the dwelling shall be restored to comply with all applicable codes and ordinances, and final approval obtained from the Development Services Department.

### Section 3-412 Second Story Addition or Rebuild.

Second story addition ~~on to~~ a single family dwelling, or replacement of one-story single family dwelling with a dwelling of two or more stories, are allowed with a use permit ~~and shall be subject to design review~~. This Section shall not apply to replacement dwellings where the dwelling previously occupying a lot was demolished prior to ~~December 1, 20~~ the effective date of the land use ordinance~~02~~.

### Section 3-413 Wireless Telecommunication Facilities.

- A. Towers:** Wireless telecommunications towers and other facilities shall be allowed upon approval with a use permit.
- B. Building mounted:** Building mounted telecommunications WTFs integrated into the design of the building or fully screened and must receive Design Review approval as a building modification. Satellite dishes not exceeding 2' in diameter shall be permitted in any zone. Building mounted dishes shall require administrative review. Building mounted dishes greater than 2' in diameter are permitted in commercial, mixed use, and industrial districts and shall require a use permit.
- C. Collocation:** WTFs may be collocated and will not require a use permit, unless an increase in height of the existing tower is necessary. Any addition to the existing height of the tower to facilitate collocation shall require a use permit. WTFs attached to existing light ,power, or telephone poles require a use permit.

~~**A. Permitted Uses.** Wireless communication facilities (WCFs), including antenna, support structure, equipment enclosure, and security barrier are permitted in the following zones:~~

- ~~1. Collocated WCFs shall be considered a permitted use on all existing, legally established, transmission towers in all zones, with Administrative Review required;~~
- ~~2. Satellite dishes not exceeding two (2) feet in diameter shall be permitted in any zone. Building mounted dishes shall require Administrative Review;~~
- ~~3.1. WCF's attached to existing light, power, or telephone poles are permitted, subject to Administrative Review and demonstrated approval of the subject utility company, if any.~~

~~**B. Uses Allowed with a Use Permit.** New wireless communication towers exceeding thirty five (35) feet in height and other wireless communication facilities that~~

~~are not listed in subsection A, above, shall be allowed upon approval of a use permit, subject to the following limitations:~~

~~1. In the CC and MU zones, only building mounted WCFs are allowed. Other WCFs are prohibited.~~

~~2.1. Satellite dishes greater than two (2) feet in diameter are allowed in a commercial/mixed use or industrial district upon the granting of a use permit. Except, however, that the collocation of a dish greater than two (2) feet in diameter on an existing tower within a commercial, mixed use, or industrial district are allowed subject to Administrative Review.~~

**C.D. Application Requirements.** An applicant for a new ~~WCF~~ WTF (use permit or administrative review) shall submit the following information:

1. Use permit application, including a site plan, when applicable.
2. For towers, monopoles, and similar proposals, A visual study containing, at a minimum, a vicinity map depicting where, within a half-mile radius, any portion of the proposed ~~WCF~~ WTF could be visible, and a graphic simulation showing the appearance of the proposed tower and accessory structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation measures. Such points are to be mutually agreed upon by the Development Services Manager and the applicant.
3. Documentation of the steps that will be taken to minimize the visual impact of the proposed ~~WCF~~ WTF.
4. A landscape plan drawn to scale that is consistent with the need for screening at the site. Any existing vegetation that is to be removed must be clearly indicated and provisions for mitigation included where appropriate.
5. A feasibility study for the collocation of telecommunication facilities as an alternative to new structures. The feasibility study shall include:
  - a. An inventory, including the location, ownership, height, and design of existing ~~WCFs~~ WTFs within one-half mile of the proposed location of a new ~~WCF~~ WTF. The ~~planning official~~ Development Services manager, hearing officer, or Board of Adjustment may share such information with other applicants seeking permits for ~~WCFs~~ WTFs, but shall not, by sharing such information, in any represent or warrant that such sites are available or suitable.
  - b. Applicant shall document ~~Documentation of the~~ efforts ~~that have been~~ made to collocate on existing ~~or previously approved~~ towers. Each applicant shall make a good faith effort to contact the owner(s) of ~~all~~ existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form and content of such contact. Collocation shall not be precluded simply because a fee for

shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. Collocation costs exceeding new tower development are presumed to be unreasonable.

~~e.If collocation is not feasible, the applicant shall provide documentation as to why collocation on existing or proposed towers or location on an existing tall structure within one half mile of the proposed site is not practical or feasible. Collocation shall not be precluded simply because a fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. The planning official and/or Planning Commission may consider expert testimony to determine whether the fee and costs are reasonable. Collocation costs exceeding new tower development are presumed to be unreasonable.~~

~~6.A report from a licensed professional engineer containing a description of the proposed design, its ability to allow for future collocation, and if the proposed tower is not intended to allow for future collocation, the engineer shall provide an explanation why it is not so intended. The engineer's report must also document that the proposed tower will have sufficient structural integrity for the proposed uses at the proposed location, in conformance with the minimum safety requirements of the State Structural Specialty Code, latest adopted edition at the time of the application.~~

~~7.Documentation demonstrating compliance with non-ionizing electromagnetic emissions standards as set forth by the Federal Communications Commission.~~

~~8.Evidence that the proposed tower will comply with all applicable requirements of the Federal Aviation Administration, the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communications Commission.~~

~~9.A description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.~~

~~10.If a new tower is approved, the owner shall be required, as a condition of approval, to:~~

~~a.Record the conditions of approval specified by the City with the Deeds Records Office in the Office of the County Recorder of the county in which the tower site is located;~~

~~b.Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant;~~

~~c.Negotiate in good faith for shared use by third parties; and~~

~~d.a. Such conditions shall run with the land and be binding on subsequent purchasers of the tower site.~~

~~11.6.~~ The Development Services Manager may request any other information deemed necessary to fully evaluate and review the application and the potential impact of a proposed tower and/or antenna.

**~~D.E. Collocation~~**Abandoned Tower/Antenna.****

~~1. The wireless telecommunication tower/antenna shall be removed within thirty (30) days of discontinuance of the tower/antenna's use.~~

~~. In order to encourage shared use of towers, all new WCFs shall comply with the following collocation standards.~~

~~1. To encourage shared use of towers, no use permit shall be required for the addition of antennae to an existing tower, nor shall a use permit be required for accompanying accessory uses, except as provided in 2, below.~~

~~2. The height of an existing support structure may be increased for the purpose of accommodating collocation, provided that there is no change to the type of tower and tower height is increased by the minimum amount necessary to accommodate the collocated facilities. Increases in height exceeding ten (10) feet require a use permit. Height increases of ten (10) feet or less for this purpose shall be processed as an Administrative approval.~~

~~3. All collocated facilities, and additions to existing towers, shall meet all requirements of the State Structural Specialty Code, latest adopted edition. A building permit shall be required for such alterations or additions. Documentation shall be provided by a licensed professional engineer, verifying that changes or additions to the tower structure will not adversely affect the structural integrity of the tower.~~

~~4. All collocated facilities shall be designed in such a way as to be visually compatible with the tower structures on which they are placed.~~

## **Section 3-414 Mini Warehouse.**

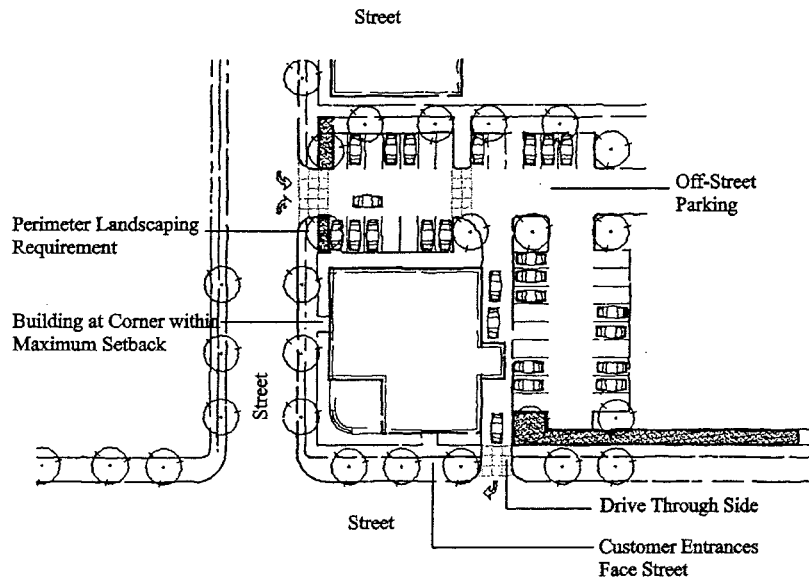
Mini-warehouses are for storage purposes only. ~~Individual enclosed storage compartments shall not exceed five hundred (500) square feet.~~ No retailing is permitted from these facilities.

## **Section 3-415 Drive-Through Facilities.**

Drive-through facilities shall be oriented toward side or rear yards. ~~when practicable. Where a drive through facility or associated drive lane or queuing area must abut a street right of way, such facility shall be setback from the street rights of way behind a landscape buffer of not less than eight (8) feet in width.~~ Where the land use district

provides a maximum setback, a drive-through facility shall not be placed within the minimum-maximum setback. [See Figure 3-415.](#)

Figure 3-415 Drive-Through Facilities.



Delete Graphic

**Section 3-416 Outdoor Display ~~Fuel Sales/Service Station Accessory Use.~~**

~~Service station accessory business involving the sale or rental of automobiles, trailers, motorcycles, boats, or other vehicles must be screened from all abutting residential districts by a six (6) foot high screening wall, in conformance with Section 4-501 et seq., Landscapes. One accessory business may openly display its product or service if located at least forty (40) feet from the street right of way. All other accessory businesses shall be operated from within the main service station building with no outside display or storage.~~

Purpose

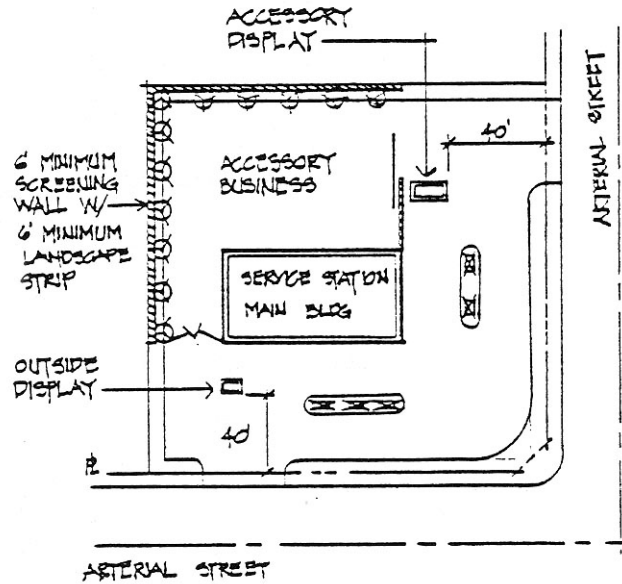
The purpose of this section is to allow a business or tenant to display an incidental amount of merchandise adjacent to the exterior of a building.

Applicability

Outdoor displays are allowed in the Central Commercial (CC) district, subject to the following regulations:

1. Displays may be in City right-of-way subject to an encroachment permit;
2. Displays shall not occupy required parking areas, landscaped areas, or vehicular driveways (including fire lanes);
3. Displays shall be placed in front of the business space;
4. Any display must allow for a minimum 6' wide pedestrian path across the building frontage and to and from all building entrances and exits;
5. Use of displays is limited to the normal hours of operation.

6. Solid display structures are limited to four (4) feet in height and total display area shall not obscure more than 25% of window area.
7. Display merchandise shall be the same as that sold inside the store.
8. Sales demonstrations are allowed without amplification.
9. Point of display signage shall not exceed a total of three (3) square feet.



### Section 3-417 Adult Businesses.

- A. Purpose.** It is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several such uses are concentrated under circumstances having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to insure that these adverse secondary effects will not contribute to the blighting or downgrading of the existing surrounding neighborhood. These special regulations are itemized in this section. The purpose of the regulation is to promote the health, safety, and general welfare of the citizens of the city by preventing a concentration of these uses in any one area. It is not the intent of this Code to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Further, it is not the intent of this Code to permit any use or act which is otherwise prohibited or made punishable by law.

**Cross reference**—See also the following definitions in Part 7 of this Code: adult-oriented business, adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult novelty store, adult theater, escort, escort agency, nude model studio, nudity/state of nudity, sexual encounter center, specified anatomical areas and specified sexual activities.



**City code reference**—See TCC §16A-56, escort definitions and rules; TCC §16A-112 et seq., adult-oriented businesses.

**B. Locational Requirements.** Adult-oriented businesses are subject to the following locational requirements:

1. No adult-oriented business shall be operated or maintained within one thousand (1,000) feet of a residentially zoned district or be located within one thousand (1,000) feet of any other adult-oriented business. For the purpose of this subsection, all adult-oriented businesses with a common owner and building entrance shall be considered a single adult-oriented business; and
2. No adult-oriented business shall be operated or maintained within one thousand (1,000) feet of a public park, church, synagogue or temple, a state-licensed child care facility, any elementary or secondary school, library, public community building or public or private recreational facility, adult group home and child shelters, where minors are permitted; and
3. The distance limitations in this subsection shall be measured as the shortest horizontal line between the property lines of the relevant property involved. This measurement shall exclude any public right-of-way.

**C. Operational Requirements.** Any adult-oriented business shall comply with the following requirements:

- ~~1.~~ 1. Security plan required. Refer to Appendix B. 4.
- ~~2.~~ For the prevention of the spread of sexually transmitted disease, no partitions between subdivisions of a room, portion or part of a building, structure or premises may have an aperture which is designed or otherwise constructed to permit sexual activity between persons on either side of the partition;
- ~~3.~~ 2. No booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, shall have doors, curtains or portal partitions, but all such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment:
  - a. The words "booth, stalls, partitioned portions of a room or individual rooms" mean such enclosures as are specifically offered to the public or members of that establishment for hire or for a fee as part of a

business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure;

- b. The words "booths, stalls, partitioned portions of a room or individual rooms" do not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to any persons other than employees;
- c. The words "doors, curtains or portal partitions" mean full, complete, nontransparent closure devices through which one cannot see or view the activity taking place within the enclosure; and
- d. The words "open to adjacent public room so that the area inside is visible to persons in the adjacent public room" shall mean either the absence of any "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass or other such material meeting building code and safety standards, extending from the floor to the top of the door frame, exclusive of the door or device framing itself, so that the activity inside the enclosure may be viewed or seen by persons outside the enclosure.

## Chapter 5 – Non-Conforming Situations

|               |   |
|---------------|---|
| Section 3-501 | Purpose.  |
| Section 3-502 | General Provisions.                                     |
| Section 3-503 | Alterations of a Non-Conforming Use.                    |
| Section 3-504 | Alterations to a Non-Conforming Development.            |
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| Section 3-507 | Damage to a Non-Conforming Use or Development.          |
| Section 3-508 | Reclassification to Permitted Status with a Use Permit. |
| Section 3-509 | Non-Conforming Lots of Record.                          |

### Section 3-501 Purpose.

The purpose of this section is to ~~permit~~allow non-conforming uses and developments to continue, but not to encourage their perpetuation; and ultimately bring development and uses into conformance with this Code.

### Section 3-502 General Provisions.

- A. **Legal Non-Conforming Uses and Developments.** ~~A non-conforming situation (non-conforming use or non-conforming development), that was lawfully established prior to the effective date of this Code, may continue to exist under this Code. Nothing in this ordinance shall affect existing property or the right to its continued use for the purpose used at the time the ordinance takes effect, nor to any reasonable repairs or alterations in buildings or property used for such existing purpose.~~
- B. **Approved Projects.** ~~In order to avoid undue hardship, n~~Nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Code and upon which actual building construction has been carried on diligently. ~~Construction is considered to have started if excavation, demolition, or removal of an existing building has begun in preparation to rebuilding, and a building permit has been acquired prior to the effective date of adoption or amendment of this Code.~~

**Section 3-503** ~~Alterations of a Non-Conforming Use.~~

~~A non-conforming use may be altered to make it more closely conforming to this Code.  
A non-conforming use shall not be enlarged.~~

**Section 3-504** ~~Alterations to a~~ Legal ~~Non-Conforming Development.~~

~~A.~~ **Alteration.** ~~All developments may be maintained but shall not be re-erected, relocated, or replaced unless brought into compliance with this code. Where a development (i.e., structure, landscape, parking, or other feature as defined in Section 1-305) is non-conforming, an alteration (expansion, enlargement, extension, reconstruction, or relocation of the same) may be approved, subject to the applicable review procedures and standards of this Code. The Zoning Administrator may approve without notice those projects that:~~

- ~~1. Are designed to remove non-conforming status;~~
- ~~2. Do not require a use permit, major site plan, or major design review application; and~~
- 3.1. Conform to all other applicable Code standards.

**Section 3-505** ~~Expansion of a~~ Legal ~~Non-Conforming Use.~~

~~A non-conforming use may be expanded or enlarged to an extent not exceeding twenty five percent (25%) of the land area or building ground floor area existing at the time it became nonconforming being used for the non conforming use. Such expansion shall require a use permit. shall not be expanded or moved to occupy a different or greater area of land, buildings, or structures than it occupied at the time it became non-conforming.~~

**Section 3-506** ~~Discontinuance of a~~ NonLegal Non- ~~Conforming Use.~~

Whenever a nonconforming use has been abandoned or ceases to exist for a period in excess of one year, such use shall not thereafter be re-established.

~~Whenever a non-conforming use is discontinued for more than one (1) year, further use shall be in conformity with the provisions of this Code. For purposes of this Code, rental payments or lease payments and taxes shall not be considered as a continued use. "Discontinued" shall mean nonuse and shall not include a determination of the voluntary or involuntary nature of the discontinuance or the intent to resume the non-conforming use.~~

**Section 3-507** ~~Damage to a~~ Legal ~~Non-Conforming Use or~~ Development.

If a ~~structure with a~~ non-conforming ~~use~~ development is damaged by any means to an extent exceeding 60 percent of its most recent, pre-damage ~~assessed~~ valuation ~~as indicated in the assessor's office~~, any repair, replacement, or reconstruction of that future development on the site shall conform to the requirements of the district in which it is located.

**~~Section 3-508 — Reclassification to Permitted Status with a Use Permit.~~**

~~Whenever a non-conforming use is classified as a use that may be permitted conditionally with a use permit, it shall be reclassified as conforming upon receipt of an approved use permit.~~

**Section 3-509      Legal Non-Conforming Lots of Record.**

~~A legal, non-conforming~~<sup>A</sup> lot, ~~existing at the time of adoption of this ordinance, may be developed with a use permitted in the district for which the lot is zoned, subject to complying with the current standards of that district of except for, lot size, width and length. of record may not meet the lot size requirements of the district in which it is located. Such a lot may be occupied by a use permitted in the district. If, however, the lot is smaller than the size required in its district, residential use shall be limited to one dwelling unit or to the number of dwelling units consistent with density requirements of the district, whichever is greater.~~